

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

In re:  
THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.<sup>1</sup>

PROMESA  
Title III

No. 17 BK 3283-LTS

(Jointly Administered)

**This filing relates to the  
Commonwealth.**

**REPLY OF THE COMMONWEALTH OF PUERTO RICO TO RESPONSE FILED BY  
MARIA VICTORIA PEREZ RODRIGUEZ [ECF NO. 16370] TO THE  
THREE HUNDRED FIFTH OMNIBUS OBJECTION (NON-SUBSTANTIVE) TO  
INCORRECT DEBTOR CLAIMS**

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**To the Honorable United States District Judge Laura Taylor Swain:**

The Commonwealth of Puerto Rico (the “Commonwealth” or the “Debtor”), by and through the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), as the sole Title III representative of the Commonwealth pursuant to section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”),<sup>2</sup> files this reply (the “Reply”) to the response [ECF No. 16370] (the “Response”) filed by claimant María Victoria Pérez

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<sup>1</sup> The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the “Commonwealth”) (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA” and together with the Commonwealth, COFINA, HTA, and ERS, the “Debtors”) (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

<sup>2</sup> PROMESA is codified at 48 U.S.C. §§ 2101-2241.

Rodríguez (“Pérez Rodríguez”) to the *Three Hundred Fifth Omnibus Objection (Non-Substantive) of the Commonwealth of Puerto Rico to Incorrect Debtor Claims* [ECF No. 16023] (the “Three Hundred Fifth Omnibus Objection”). In support of this Reply, the Commonwealth respectfully represents as follows:

1. On March 12, 2021, the Commonwealth filed the Three Hundred Fifth Omnibus Objection seeking to reclassify certain claims (collectively, the “Claims to Be Reclassified”), each as listed on Exhibit A thereto. As set forth in the Three Hundred Fifth Omnibus Objection and supporting exhibits thereto, each of the Claims to Be Reclassified identify the Commonwealth as the obligor, when they are properly asserted, if at all, against the Puerto Rico Electric Power Authority (“PREPA”).

2. Any party who disputed the Three Hundred Fifth Omnibus Objection was required to file a response by 4:00 p.m. (Atlantic Standard Time) on April 14, 2021 in accordance with the Court-approved notice attached to the Three Hundred Fifth Omnibus Objection as Exhibit C, which was served in English and Spanish on the individual creditors subject to the Three Hundred Fifth Omnibus Objection, the U.S. Trustee, and the Master Service List (as defined in the *Fifteenth Amended Notice, Case Management and Administrative Procedures* [ECF No. 17127-1]). See *Certificate of Service* [ECF No. 16139].

3. The Response was filed with the Court on April 9, 2021, and docketed as ECF No. 16370 on the same day. Therein, Pérez Rodríguez does not dispute that her proof of claim, which was filed against the Commonwealth on April 20, 2018 and logged by Prime Clerk as Proof of Claim No. 7844 (the “Pérez Rodríguez Claim”), purports to assert liabilities against PREPA, and attaches as supporting documentation a complaint (the “Complaint”) that was filed in the Court of First Instance in San Juan and that names PREPA, Pérez Rodríguez’s employer, and one if

PREPA's other employees as defendants. The Complaint seeks damages for alleged sexual harassment and retaliation against Pérez Rodríguez allegedly committed by another individual employed by PREPA. It does not name the Commonwealth as a defendant, nor does it allege that the Commonwealth is liable for the alleged harassment and retaliation.

4. The Response likewise concedes that PREPA "is a separate and legally independent entity with the capacity to sue be sued autonomously." Response at 1 (citing 22 L.P.R.A. § 196(e)). Nevertheless, the Response also argues that the Commonwealth "is also obligated to comply effectively . . . to enforce the contractual agreements" because "[f]ailure to hold the State responsible would . . . allow[] it to expropriate the title [Pérez Rodríguez has] to [her] pension." Response at 3. As support for that assertion, Perez Rodriguez cites 32 L.P.R.A. § 3077, which authorizes suits against the Commonwealth for "[a]ctions to claim movable and immovable property or rights thereon . . . ." *Id.*

5. But, the Response fails to identify any "contractual agreements" obligating the Commonwealth to pay liabilities owed by PREPA to its employees as a result of alleged workplace sexual harassment. Nor does the Response explain how failure to "hold the State responsible" for the conduct described in the Complaint would "allow[ the Commonwealth] to expropriate" Pérez Rodríguez's pension. Pérez Rodríguez's citation to 32 L.P.R.A. § 3077 is equally unavailing, because that provision also does not purport to render the Commonwealth liable for PREPA's obligations to PREPA's own employees.

6. Accordingly, because the Response does not dispute that the Pérez Rodríguez Claim asserts liabilities associated with a Complaint filed solely against the Commonwealth, and the Response does not otherwise provide a basis for asserting liability against the Commonwealth, the Pérez Rodríguez Claim should be reclassified to be asserted against PREPA.

7. For the foregoing reasons, the Debtors respectfully request that the Court grant the Three Hundred Fifth Omnibus Objection and reclassify the Pérez Rodríguez Claim, notwithstanding the Response.

Dated: January 5, 2022  
San Juan, Puerto Rico

Respectfully submitted,

/s/ Hermann D. Bauer

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